

CONFIDENTIAL

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24 October 1955

OGC Has Reviewed

MEMORANDUM FOR: Chief, Real Estate & Construction Division

ATTENTION

: Mr. [REDACTED]

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SUBJECT

: Propriety of Paying Per Diem for Duty at  
Other Than Temporary Duty Location

1. You have orally requested our advice regarding the propriety of paying per diem under the following circumstances.

2. An individual with [REDACTED] as his ostensible permanent station but having [REDACTED] as his actual duty station is being paid per diem while on duty there. It seems that the reason for making these payments is to reduce the spread between the rental which this individual would pay if he occupied government quarters, and the rental he actually does pay for the private quarters occupied on [REDACTED]. By way of explanation, it is alleged that the nature of this individual's duties requires that he occupy private quarters.

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3. We must advise that, on the basis of the facts submitted, there is no legal basis for paying this individual additional compensation in the form of per diem since it is clear that he is serving at what is in fact his post of duty. Further, since this individual does not have a legal right per se to be furnished government quarters in the area in which he is now located, any attempt to reduce the difference between the respective rentals by means of a device similar to per diem would constitute a mere gratuity and hence be unauthorized.

4. While there may be operational considerations which may outweigh the legal concepts set forth here, a determination in that regard is not within the province of this Office.

5. This will confirm our telephone conversation of Friday, 21 October 1955.

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[REDACTED]  
Office of General Counsel

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